

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN MARIANA ISLANDS

SEP 22 2005

For The Northern Mariana Islands  
By \_\_\_\_\_  
(Deputy Clerk)

CR- 03-00001-001

September 22, 2005  
10:05 a.m.

**UNITED STATES OF AMERICA -v- LIONEL BORJA**

PRESENT: HON. ALEX R. MUNSON, Chief Judge Presiding  
SANA E SHMULL, Court Reporter  
K. LYNN LEMIEUX, Courtroom Deputy  
TIMOTHY MORAN, Assistant U. S. Attorney  
MARK HANSON, Counsel for Defendant  
LIONEL BORJA, Defendant

PROCEEDING: SENTENCING

Defendant was present with his court appointed counsel, Attorney Mark Hanson. Government by Timothy Moran, AUSA. Also present was U.S. Probation Officer, Margarita Wonenberg.

Court adopted the presentence investigation report and instructed the Clerk to file the amended report and addendum, under seal, and that the reports be made available if the judgment is appealed. The probation officer's recommendation shall also be placed under seal. Defense requested some corrections and/or additions to the report. Court so noted.

Government moved under 18 U.S.C. §3553(e) for a 7 point addition on the guidelines for the use and discharge of a firearm bringing the total offense level to 26. Further, the Government moved for a 5K1.1 downward departure for substantial assistance and cooperation. Defense argued their position.

Court granted the §3553(e) motion and denied the 5K1.1 motion. Court found that the appropriate guideline is now found **at level 26**. No objections by the parties.

Government recommended a downward departure from the guidelines because of substantial assistance. Defense called witness:

**DEBORAH GUERRERO** (sister of defendant). DX.

**JOAQUINA BORJA** (mother of defendant). DX.

Defense recommended a sentence of 33 months imprisonment.

Defendant gave his allocution to the Court.

**SENTENCE:** Pursuant to the Sentencing Reform Act of 1984, it is the judgment of the Court that the defendant **LIONEL BORJA**, is hereby sentenced to a term of 70 months imprisonment as to **Count I** and 70 months imprisonment on Count III. He shall be given credit for time served (approximately two years, seven months, and three days). It is also ordered that the sentences shall be served concurrently. While in prison the defendant shall participate in a drug treatment program, vocational and educational programs.

Upon release from imprisonment, the defendant shall be placed on supervised release for three years with the following conditions:

1. The defendant shall not commit another federal, state, or local crime;
2. The defendant shall not unlawfully possess a controlled substance and shall refrain from any unlawful use of a controlled substance. He shall submit to up to eight drug tests a month for use of a controlled substance;
3. The defendant shall submit to the collection of a DNA sample at the direction of the U.S. Probation Office;
4. The defendant shall comply with the standard conditions of supervised release as set forth by the U.S. Sentencing Commission and under 18 U.S.C. § 3583;
5. The defendant shall be prohibited from possessing a firearm or other dangerous weapon or have such at this residence;
6. The defendant shall be prohibited from incurring new credit charges or opening additional lines of credit without approval of the U.S. Probation Office unless he is in compliance with the payment schedule;
7. The defendant shall provide the U.S. Probation Office access to any requested financial information;
8. The defendant shall refrain from the use of all alcoholic beverages;
9. The defendant shall participate in a program approved by the U.S. Probation Office for substance abuse, which program may include testing to determine whether the defendant has reverted to the use of drugs or alcohol. The defendant shall also make co-payment for the program at a rate to be determined by the U.S. Probation Office; and
10. The defendant shall perform 200 hours of community service under the direction of the U.S. Probation Office.

The defendant is ordered to immediately pay restitution in the amount of \$8,649.50 to the victim as follows:

City Trust Bank  
c/o Maria L. Johnson  
Assistant Vice President/Acting Manager  
P.O. Box 501867  
Saipan, MP 96950

Restitution payments shall be remitted to the Clerk of Court, 2<sup>nd</sup> Floor Horiguchi Building, Saipan, MP 96950, which shall be disbursed to the victim.

Pursuant to U.S. Sentencing Guidelines, Section 5E1.2(e), all fines are waived since it has been determined that the defendant does not have the ability to pay.

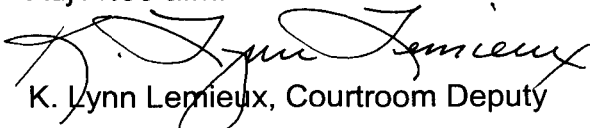
It is further ordered that the defendant pay to the United States a special assessment fee of \$200 to be paid immediately after sentencing.

No objection to the sentence by the attorneys. Defendant was advised that he had ten days in which to appeal his sentence. Further, the defendant was advised of his right to an attorney for appeal.

Government moved to dismiss Count II for this defendant. Court so ordered.

Defense requested that the Court make a recommendation to the BOP to recommend placing the defendant in a facility in Houston, TX or Hawaii as he has family in these locations. Court stated that the recommendation would be made.

Adj11:05 a.m.

  
K. Lynn Lemieux, Courtroom Deputy